

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

PRACTICEWORKS, INC., et al., )  
Plaintiffs )  
)  
- against - )  
)  
PROFESSIONAL SOFTWARE SOLUTIONS )  
OF ILLINOIS, INC., )  
)  
Defendant. )  
----- x  
----- x  
)  
PRACTICEWORKS, INC., et al., )  
Plaintiffs )  
)  
- against - )  
)  
DENTAL MEDICAL AUTOMATION, INC., )  
Defendant. )  
----- x

**PLAINTIFFS' NOTICE OF MOTION FOR PARTIAL  
SUMMARY JUDGMENT, TO DISMISS, OR, IN THE  
ALTERNATIVE, FOR JUDGMENT ON THE PLEADINGS**

Pursuant to Rule 56(c) of the Federal Rules of Civil Procedure, Plaintiffs PracticeWorks, Inc. (“PracticeWorks”) and SoftDent LLC (“SoftDent”) (collectively “Plaintiffs”), by counsel, respectfully move this Court to grant Partial Summary Judgment against Defendants Professional Software Solutions of Illinois, Inc. (“PSS Illinois”) and Dental Medical Automation, Inc. (“DMA”) (collectively “Defendants”) and in favor of Plaintiffs on their: (i) Fourth Amended Count for breach of the Dealer/Resellers Agreements, dated as of January 1, 1993 (the “Agreements”); (ii) SoftDent’s Fifth Amended Count for copyright infringement; (iii) Sixth Amended Count for a declaration that following termination of the Agreements and Defendant’s rights thereunder, which occurred on December 31, 2002, Defendants do not have the right to continue to use the Software in providing “technical support and service” to third parties; and (iv) Third Amended Count for recoupment of expenses under Section 17 of

the Agreement, including attorneys fees, disbursements and other costs incurred by Plaintiffs in enforcing Plaintiffs' rights under the Agreements and seeking dispositive relief on the instant motion with respect to their affirmative claims and Defendants' Counterclaims.

Plaintiffs also respectfully move this Court to grant Partial Summary Judgment in favor of Plaintiffs dismissing Defendants': (i) Seventh Amended Counterclaim for a declaration that they may continue to provide technical support and service of SoftDent's products to customers pending this litigation or after termination of the Agreements; (ii) Ninth Amended Counterclaim for attorneys' fees and costs under Section 17 of the Agreement; and (iii) PSSI's Fourteenth Amended Counterclaim for breach of contract.

Additionally, Plaintiffs respectfully move this Court for an order pursuant to Rule 12(b)(6) or, in the alternative, judgment on the pleadings pursuant to Rule 12(c) of the Federal Rules of Civil Procedure, dismissing Defendants': (i) Fifth Amended Counterclaim for unfair competition, deceptive trade practices and disparagement under Illinois and Ohio statutory and common law; (ii) Eighth Amended Counterclaim for "federal unfair competition for false and/or misleading representations" under Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a); (iii) Tenth Amended Counterclaim for tortious interference with contract; (iv) Eleventh Amended Counterclaim for tortious interference with prospective economic advantage; (v) Twelfth Amended Counterclaim for an Accounting; and (vi) Thirteenth Amended Counterclaim for antitrust violations under Section 1 of the Sherman Act, 15 U.S.C. § 1.

Finally, Plaintiffs respectfully move this Court for an order pursuant to Rule 12(b)(6) dismissing Defendants' Twelfth through Twenty-Second Affirmative Defenses to the Fifth Amended Count, SoftDent's copyright infringement claim.

The points and authorities supporting this Motion, including a statement of facts as to which there is no genuine dispute, are fully set forth in the attached Memorandum of Law as well as the Affidavit of Al Fiore, sworn to February 13, 2004, which are incorporated by reference herein.

**WHEREFORE**, Plaintiffs PracticeWorks and SoftDent respectfully submit that (i) Partial Summary Judgment should be granted in their favor with respect to their Third, Fourth Fifth and Sixth Amended Counts in the Complaint, (ii) Partial Summary Judgment should be granted in their favor dismissing Defendants' Seventh, Ninth and PSSI's Fourteenth Amended Counterclaim, (iii) Partial Judgment, or in the alternative, on the Pleadings should be granted in their favor Dismissing Defendants'

Fifth, Eighth, Eleventh, Twelfth and Thirteenth Amended Counterclaims, (iv) Partial Judgment Dismissing Defendants' Twelfth through Twenty-Second Affirmative Defenses to the Fifth Amended Count, SoftDent's copyright infringement claim should be granted and (v) such other and further relief as the Court may deem just and warranted in the circumstances should be granted in favor of Plaintiffs.

Respectfully submitted,

KATTEN MUCHIN ZAVIS ROSENMAN

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